

REMARKS

Claims 1-15, 17-18, 20-21 and 23 are pending. Claims 16, 19 and 21 were previously cancelled.

I. The Restriction Requirement and Applicant's Provisional Election

The Examiner required restriction, under 35 U.S.C. §§ 121, 372, between the following groups as these inventions or groups of inventions allegedly are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group A-I claims 1-6, 8, 10-11 and 15, drawn to polypeptides, pharmaceutical compositions comprising the polypeptide, polynucleotides encoding the same, cells transformed with the polynucleotides, and methods of producing the encoded polypeptides.

Group A-II claim 7, drawn to a transgenic organism.

Group A-III claim 9, drawn to an antibody.

Group A-IV claims 12-14, drawn to methods for detecting a target polynucleotide.

Group A-V claims 17 and 20, drawn to methods for identifying agonists and antagonists.

Group A-VI claims 18 and 21, drawn to pharmaceutical compositions comprising agonists or antagonists.

Group A-VII claim 23, drawn to a method for screening a compound for effectiveness in altering the expression of a target polynucleotide.

In addition, the Examiner required the further election restriction, under 35 U.S.C. §§ 121, 372, between Groups B-I to B-XVII. Each of Groups B-I to B-XVII encompass the pending claims as they relate to SEQ ID NO:1-17, respectively.

In response to the restriction requirement, Applicants hereby provisionally elect, with traverse, Group A-I, claims 1-6, 8, 10-11 and 15, drawn to polypeptides, pharmaceutical compositions comprising the polypeptide, polynucleotides encoding the same, cells transformed with the polynucleotides, and methods of producing the encoded polypeptides. With respect to the Examiner's second restriction requirement, Applicants provisionally elect, with traverse, Group B-IX, claims 1-15, 17-18, 20-21 and 23, as they relate to SEQ ID NO:9.

II. In Accordance With Office Practice, The Examination Of Claims To Ten Polynucleotide Sequences Does Not Create An Undue Burden

Applicants draw the Examiner's attention to Section 803.04 of the Manual of Patent Examining Procedure. While contending that nucleotide sequences that encode different proteins "constitute independent and distinct inventions" the Commissioner has decided to "permit a reasonable number of such nucleotide sequences to be claimed in a single application" so as to "further aid the biotechnology industry in protecting its intellectual property." See id. To this end, the Patent Office "determined that normally ten sequences constitute a reasonable number for examination purposes" and that that number does not create "an undue burden on the Office." Id. Indeed, the Office states that "up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction." Id. Accordingly, the Examiner's contention that Groups IV to VI are "distinct from the other" and, therefore, subject to restriction, is not consistent with Office practice.

Indeed, under the "Examples of Nucleotide Sequence Claims" subsection of Section 803.04, the Office states that "[O]nly the *ten* nucleotide sequence selected in response to the restriction requirement and any other claimed sequences which are patentably indistinct therefrom *will be examined*" (emphasis added).

For this reason, Applicants contend that the polynucleotides depicted in SEQ ID NO:22-25, corresponding to Groups B-V to B-VIII, and SEQ ID NO:27-31, corresponding to Groups B-X to B-XIV, should be examined alongside the polynucleotides of SEQ ID NO:26. Accordingly, Applicants kindly request that the Examiner rejoin SEQ ID NO:22-25 and SEQ ID NO:27-31 and examine together the polynucleotides of Groups B-V to B-XIV.

III. Conclusion

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 19-0741. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should be charged to our Deposit Account.

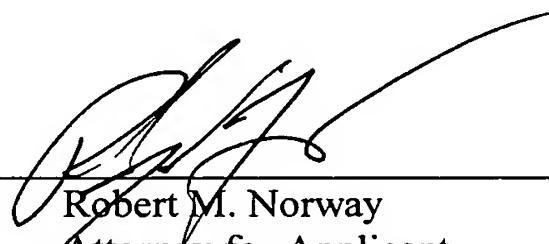
Respectfully submitted,

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